

## Chapter 3B

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## **Railroad Communication (49 CFR Part 220)**

Within the assigned territory, an inspector conducts periodic inspections and observations to determine the degree of the railroad's compliance with the radio standards and procedures. Inspections and observations are made of the railroad's use of radio communications during railroad operations. Monitoring of radio procedures may be conducted at any location where railroad employees use radio communications, either transmission and/or reception, during railroad operations.

Review the railroad's radio communication rules for conformity with the regulations.

Review the railroad's timetable or special instructions to determine:

- where base stations are installed,
- where wayside stations may be contacted,
- if appropriate radio channels are published, and
- the time periods during which base and wayside radio stations are attended or are in operation.

Determine whether each employee who is authorized to use a radio for railroad operations has been:

- given a copy of the railroad's operating rules on the use of radio communications in railroad operations, and
- instructed in the proper use of radio communications as part of the program of instruction prescribed in 217.11.

Note: The radio rule applies to any person authorized by the railroad to use its radio facilities in railroad operations.

An inspector should inspect and observe where radio communications are used in railroad operations. An inspection and observation site can be any base station, wayside station, installation, facility, unit of equipment, mobile station, or packet set that transmits and/or receives voice communication in connection with railroad operations.

Radio transmissions should be monitored to ensure that identification standards are used and to determine if transmission receivers use the proper responses.

Inspectors must monitor the testing of radios and the procedures that are to be used for reporting defective radio equipment.

Special attention should be given to the radio transmission of train orders, since serious consequences may result from noncompliance.

## **FRA Monitoring of Radio Communications**

Under current rules, monitoring a railroad radio communication out of the presence of a railroad employee who is a party to the communication, can only be done if the inspector has first obtained permission from involved employees. FRA has drafted and will propose to Congress new legislation governing the use of radio scanners. Until new legislation is enacted, the attached rules shall be followed:

Listening to railroad radio communications at a point away from the sender, receiver or other employee, is an illegal "interception" (violation of Communications Act of 1934). Criminal and civil liability is possible for offenders. Evidence gathered through such illegal interceptions is inadmissible in a legal proceeding. The use of personal scanners to monitor railroad communications is not permitted unless conditions listed below are observed:

FRA inspectors may listen to railroad radio communications:

- only for purposes of radio rules enforcement; and,
- only while in the physical presence of a railroad authorized sender or receiver (for practical purposes, a railroad authorized sender/receiver is a railroad employee who is transmitting messages or listening to messages on the railroad radio station on the railroad radio); and,
- this authorized individual has knowledge that FRA is monitoring communications for purposes of compliance.

An inspector may listen to railroad radio communications in the train dispatcher's office, on a locomotive, or any other railroad facility if an authorized sender/receiver is present.

Monitoring a railroad radio communication out of the physical presence of a railroad employee can only be done if the inspector has first obtained permission from involved employees. Ideally the permission should be in writing.

An FRA inspector may record railroad radio communications, which are overheard on the railroad's radio equipment:

- only for purposes of radio rules enforcement; and,
- only when in the physical presence of a railroad authorized sender or receiver.

Recording devices must never be concealed while in use.

Railroad recordings may be monitored for purposes of accident investigation, as well as for radio rules enforcement, if the inspector is in the presence of an employee authorized by the railroad to listen to the communication and that person has knowledge of the action.

## **Rear End Marking Devices (49 CFR Part 221)**

The Motive Power & Equipment Inspectors have the primary responsibility for enforcement of Part 221. However, this does not preclude OP Inspectors from reporting deficiencies and filing violations for noncompliance with Part 221 when discovered while conducting work in the OP discipline. The inspection, observation or monitoring of rear-end marking devices should be performed during the hours when the display of rear-end marking devices is required by Part 221. Railroad operating rules may specify additional requirements for procedures during daylight hours. Therefore, inspections of rear-end marking devices during daytime hours should be recorded as a Part 217 inspection for compliance with a railroad's operating rules.

A State may continue to enforce any law, rule, regulation, order, or standard that was in effect on July 8, 1976, regarding lighted marking devices on the rear car of freight trains, provided there is no conflict with the Federal regulation.

## Railroad Accident Reporting (49 CFR Part 225)

Within their assigned territories, inspectors will conduct periodic inspections of each railroad's accident/incident records to determine compliance with FRA's railroad accident reporting rule. To ensure fair and equitable treatment to all railroads, each inspector should allow enough time to conduct a thorough and careful examination of records.

When conducting an inspection, the inspector should analyze the railroad's accident history for train accidents, train incidents, and non-train incidents, as well as for employee casualties. The inspector should search for trends in accident causes, locations, or common characteristics to establish an accident profile. This information can be used to develop countermeasures and an accident prevention program. For example, numerous side collisions in yards or run-through switches could indicate violations of the railroad's operating rule which states that an employee must be at the lead end of a pushing movement. The inspector should bring this to the attention of the railroad managers so that enforcement can lead to a reduction in accidents. Relatively minor accidents, which occur frequently, are significant and attempts should be made to eliminate them. Minor yard derailments can result in needless damage to track and equipment.

When conducting a system review, an inspector should meet the railroad's reporting officer to answer any questions about FRA's rule and to gain access to the records maintained by the reporting officer. Irregularities found during an inspection must be brought to the attention of the reporting officer for corrective action.

**The following is FRA's Work Plan for performing Railroad Accident Reporting compliance reviews of railroads:**

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**Work Plan**  
**Railroad Accident Reporting**  
**49 CFR Part 225**  
**Compliance Reviews**  
**(After January 1, 1997)**  
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**0.0 Purpose, Scope, Etc. of Compliance Review:**

**0.1 Purpose:** To verify that the railroad is in compliance with the applicable provisions of the FRA regulation for reporting personal injuries, rail equipment accidents/incidents and highway-rail grade crossing accidents.

**0.2 Scope:** Determine compliance with Part 225 (including pertinent provisions of 49 CFR Part 219) and the FRA Guide for Preparing Accident/Incident Reports.

A compliance review could cover all of the issues addressed in this work plan ("comprehensive review") or may be limited to just one or more program elements ("selective review"). The elements of this work plan are provided as guidance for routine operating practices inspections that include a records inspection.

**0.3 Applicability of Subparts:** Part 225 applies to all railroads except plant railroads, rail mass transit operations in an urban area that are not connected with the general railroad system, and a railroad that exclusively hauls passengers inside an installation that is insular or that owns no track except for track used exclusively for the hauling of passengers inside an installation that is insular. See 225.3 for operations that are not considered insular.

Exceptions: 225.3 (b)(c)(d): General system railroads with 15 or fewer hours of service employees, and railroads that operate or own track exclusively off the general system (tourist railroads) do not have to comply with:

- (1) The Internal Control Plan requirements in 225.33 (a)(3) through (10); however, these railroads must still have a harassment & intimidation policy.
- (2) The recordkeeping requirements regarding accountable injuries and illnesses and accountable rail equipment accidents/incidents found in 225.25(a) through (g).
- (3) A third exception is that all requirements in Part 225 to record or report an injury or illness incurred by any classification of person that results from a non-train incident do not apply to railroads that operate or own track exclusively off the general railroad system, unless the non-train incident involves in-service on-track equipment.

**0.4 Railroads Subject to Review:** Railroads must be given a review of their internal control plans and accident/incident reporting and recordkeeping procedures for personal injuries, accountable and reportable to the reporting officer.

**0.5 Initiation of Compliance Review:** A comprehensive or selective compliance review will be undertaken when provided by an action plan, including a plan amendment appropriately coordinated by the Regional Administrator through RRS-11.

## **1.0 Documents, Records, and Personnel (Obtain Prior to the Compliance Review):**

**1.1 Railroad Officers and Managers.** Identify by name, position, organizational location, and telephone number the person(s) responsible for performing the following functions as related to the company's accident/incident recordkeeping and reporting program.

- \* Management official(s) with overall reporting responsibility.
- \* Accident/incident reporting officer.
- \* Individual responsible for reporting at the regional or division level (if applicable).
- \* Claim Agents.
- \* Custodian of any documents not held by one of the above.

Each of these individuals should be interviewed, as applicable, to determine the following.

**1.2 Documentation.** Identify the following and their locations:

### **Employee Recordkeeping**

- \* Ensure the railroad has the current FRA Guide for Preparing Accident/Incident Reports.
- \* Railroad's log of each accountable and each reportable injury and occupational illness of employees (F6180.98 or alternative railroad-designed record that contains all of the information required on this form).
- \* Additional records maintained on employees' injuries and occupational illnesses supplemental records, as applicable. Are the records maintained at a central location, regional or divisional office?
- \* Employees' injury and medical documents, as applicable.

Most railroads keep some form of information that needs to be identified.

- \* Claims department documentation.

### **Rail-Equipment**

- \* Railroad's log of each accountable and each reportable on-track accident/incident (F6180.97 or alternative railroad-designed record that contains all of the information required on this form).
- \* Freight car repair documentation (car repair billing).
- \* Locomotive repair documentation.
- \* Engineering (M/W) repair documentation (includes signals, track and buildings).

1.3 **Covered Employee Representatives.** Interview one or more general or local chairmen from the labor organizations prior to the review, as appropriate.

NOTE: It is also important to interview some of the injured employees to ascertain that the records pertaining to their injury are accurate. This may be based on prior knowledge or as a result of the compliance review. It may be helpful to talk to the rail labor representatives prior to contacting the injured employees.

1.4 **Documents.** Obtain a copy of each of the following documents:

### **From FRA Headquarters**

- \* Computerized printout (RRS-20) of railroad's F6180.54, .55, .55a, and .57 reports for compliance review time frame. Analyze to determine types/trends of accident/incidents.
- \* A 12-month print out of reported accidents that qualified for post accident toxicological testing (RRS-20).

1.5 **Complaints.** Review the regional complaint investigation reports. When the compliance review is being conducted at the system level, a review of additional complaints should be coordinated through the appropriate OP Specialist if the railroad operates in multiple regions.

- \* Can any trends be identified? Has the railroad corrected specific problems or locations previously identified?

1.6 **Railroad Profile.** Initiate or update railroad accident/incident recordkeeping profile. At end of the review, provide to OP Staff Director through regional OP Specialist.

### **1.0 On-Site Inspection and Enforcement**

**From the railroad:** Obtain a copy of the following:

- \* Railroad's rules and policies governing accident/incident reporting and recordkeeping procedures that are provided to the employees.
- \* Current instructions to supervisors pertaining to accident/incident reporting and recordkeeping.
- \* Copy of the railroad's internal control plan governing accident/incident reporting and recordkeeping.
- \* Copy of the railroad's policy statement regarding commitment to: accurate reporting of accidents, incidents, injuries and occupational illnesses; the prevention of harassment or intimidation; and processing of employee complaints as outlined in the Internal Control

Plan, Chapter 1, Items 1 and 2, of the FRA Guide for Preparing Accident/Incident Reports.

Are the instructions clear and do they emphasize the importance of accident/incident reporting?

## Group I, Highway-Rail Grade Crossing

This phase of the compliance review involves the review of Form 6180.57, Highway-Rail Grade Crossing Accident/Incident Report.

If the rail-equipment damages exceed the current monetary threshold, inspectors need to crosscheck for Form 6180.54 report.

## Group II, Rail-Equipment

This phase of the compliance review involves the review of Form F6180.54, Rail-Equipment Accident/Incident Report, and F6180.97, Initial Rail Equipment Accident/Incident Record (or alternative railroad-designed form). The review team should include Track, MP&E, and S&TC Inspectors, as appropriate, in order to more accurately examine damage costs.

The damages reported to FRA should be closely reviewed to determine if the damages reported on the F6180.97 are the same as reported on Form 6180.54. A correlation between the speed of the train, number of cars derailed, and the length of track destroyed should indicate if the damages reported are reasonably accurate.

To determine freight car damages, the inspector should review the mechanical department AAR billing system for the repairs made to cars damaged in a derailment. In some cases, there is a code to show the damages resulting from the derailment. If a foreign rail car is destroyed, the railroad should have a letter of settlement as to the amount the car was depreciated. As a general rule, the locomotive shop maintains an itemized record of repairs to locomotives damaged or destroyed in a derailment or collision. Inspectors should keep in mind that some railroads maintain locomotive and freight car repair billing records in different locations.

For determining track and signal damages, the inspector should review the engineering department itemized list of ties, tie plates, spikes, bolts, rail, etc. used to repair the track.

In each case, the inspector needs to be aware that when estimating damage costs, the labor costs to be reported are only the direct labor costs to the railroad, e.g., hourly wages, transportation costs, and hotel expenses. The cost of fringe benefits is excluded when calculating direct labor costs. Overhead is also excluded when calculating damage costs.

For services performed by a **contractor**, a direct hourly labor cost is calculated by multiplying the contractor's total labor hours charged to the railroad by the applicable direct hourly wage rate for a railroad worker in that particular craft. However, if a railroad cannot match the equivalent craft to the labor hours spent by a contractor, then the railroad must use the loaded rate, i.e., the cost by hour for labor, fringe benefits, and other costs and fees for services charged by the contractor for the tasks associated with the repair of the track, equipment, and structures due to the train accident.

Verify alcohol/drug-testing codes recorded in Item 32 on F6180.54.

To determine compliance with 225.12, an inspector needs to review the following:

- \* Form 6180.78, Notice to Railroad Employee Involved in Rail-Equipment Accident/Incident Attributed to Employee Human Factor.



- \* Form 6180.81, Employee Human Factor Attachment.

### **Group III, Death, Injury, Occupational Illness**

**Employee Injury Reporting.** Review the current railroad policy and rules applicable to employee accident/incident reporting and recordkeeping.

- \* Does it clearly indicate to employees their responsibility with respect to reporting injuries or occupational illnesses?
- \* Does the railroad follow through with its policy?
- \* Is there a commitment in practice, i.e.; do the supervisors understand current and correct guidance for determining FRA accountable and reportable events? Is appropriate action taken with respect to employee injuries or occupational illnesses?

**Recordkeeping.** This phase of the compliance review involves the review of the following:

- \* Posting of all reported injuries and occupational illnesses as identified under 225.25 (h)(1) through (14).
- \* Are employees being provided a copy of their F6180.98 or alternative railroad- designed record [upon request, as provided under 225.25(c)?
- \* F6180.55, Railroad Injury and Illness Summary.
- \* F6180.55a, Railroad Injury and Illness Summary (Continuation Sheet).
- \* F6180.56, Annual Railroad Report of Employee Hours and Casualties, by State.
- \* F6180.98, Railroad Employee Injury and/or Illness Record (or alternative railroad- designed record).
- \* Any additional records for FRA accountable and reportable incidents (as determined by the activity conducted).

Through investigation, the inspector should determine the following and document the records reviewed.

- \* Do the railroad's .55, .55a's, and .98's correspond with each other and the computer printout from RRS-20?

The inspector should make a random comparison of selected months (minimum of six) to determine the level of compliance, i.e., inspection could be dependent on time frames, winter months for some locations versus summer months for others. If the level of non-compliance warrants, the comparison of months should be expanded.

The occurrence codes and injury codes will be helpful in determining accurate reporting. Inspectors should watch for the proper codes, specifically if drug and/or alcohol data is recorded in Item 5h on the .55a.

- \* Are the railroad's monthly reports submitted within the established time frames or are there numerous updates and late submissions?
- \* Do the railroad's records indicate FRA reportability? The inspector should make a random comparison of the reportable events to determine accuracy. If the level of accuracy is suspect, additional comparisons should be conducted.

- \* Does the review of the accountable incidents and accompanying file documents support the railroad's determination?
- \* Has the railroad initiated any type of reward program that would encourage employees not to report their injuries or occupational illnesses?

## Claims Records

This phase of the compliance review involves the interfacing of employee injury and occupational illnesses, which includes both accountable and reportable incidents.

The inspector will select a representative sample of cases, including any pre-identified problem cases to determine the following.

- \* For reportable employee injuries, did the railroad fail to update an employee based on documentation? Example: An employee's injury reported due to medical treatment may also have lost workdays based on the claim file documents.
- \* For accountable employee injuries, did the railroad fail to report an employee based on claim file documentation?

During the inspection of the claims files, inspectors need to be aware of the claim agents' activities. Some claim agents will not (normally) pay out money for injury or lost time unless they have some documents (proof positive of injury) on file that state the type of injury or lost time. Also, claims agents on some railroads may pay for prescription medications.

**2.1 Internal Control Plan:** Based on the review of the employing department, safety and claims departments, evaluate the following:

- \* Is the railroad's internal control plan in compliance with 49 CFR 225.33(a)(1) through (10) to systematically review and compare the employing department, safety, medical and claims records?
- \* Are there any significant avenues for evasion in the actual administration of the plan?
- \* What other problems have emerged in the administration of the accident/incident recordkeeping system?

**2.2 Telephonic Report (49 CFR 225.9).** Determine if applicable events were reported by telephone. The inspector will select a representative sample of cases to determine compliance through FRA headquarters. Obtain commitment for future compliance or take enforcement action, as needed.

**2.3 Documentation and Follow-Up:** Document work plan elements completed, and material findings, in a narrative format suitable for presentation to the railroad. Areas not involving exceptions should be covered in brief, summary fashion. Exceptions should be discussed in sufficient detail to describe the factual basis, regulatory requirements and extent of non-compliance. Where numerous specific instances are cited, reference may be made to the attached inspection reports in lieu of a detailed narrative discussion.

Provide the preliminary report to the railroad for comment within a specified period (not more than 30 days), after review by the Operating Practices Specialist.

Prepare a final report attaching the railroad response and distribute as follows:

Regional Staff (as applicable)

RRS-11 ATT.: Staff Director: Operating Practices

RCC-10 ATT.: Compliance history file.

Conduct follow-up review on items requiring correction and distribute summary of findings in the same manner as final report.

Note: As appropriate, violation reports may be prepared in connection with information obtained during a compliance review, subject to the same guidance applicable during routine inspections (see 49 CFR Part 209, Appendix A).

## **Hours of Service of Railroad Employees (49 CFR Part 228)**

During inspections, the inspector should arrange to meet the appropriate railroad representatives and/or railroad labor organization representatives to answer questions about the Hours of Service Law (HSL) and recordkeeping requirements and to provide them with information about any unsatisfactory hours of service conditions.

Within their assigned territories, each inspector will conduct periodic inspections of railroad records to determine if:

The railroad has permitted or required employees covered by the HSL to remain on duty for a period longer than that provided for in the HSL.

The railroad has reported all instances of excess service to the FRA, as required.

The reasons given by railroads in their reports of excess service constitute valid reasons under the provisions of the HSL. For example, "Operator failed to report; no relief operator available" is not an adequate explanation. The report should detail the reason for the operator's failure to report. When there is an inadequate explanation, the inspector should explore the circumstances to determine whether the railroad attempted to obtain the services of a relief operator or, if a relief operator was available despite the railroad's claim to the contrary.

The railroad is keeping hours of service records, as required. Operator and signalmen hours of service reports may be prepared and submitted on a daily, weekly, bi-weekly, or monthly basis.

When examining records, which come under the jurisdiction of the HSL, the inspector should constantly be aware of the potential for secondary uses of the information contained in the records. There is valuable information available in the dispatcher's train sheets, which an inspector can use. Information concerning unusual incidents can reveal train delays caused by sticking brakes, which could indicate a practice of improper train brake tests being performed at a terminal. An examination of the times of departures and arrivals can provide evidence of train operations at excessive speed. "Train delays" attributed to "false restrictive" signal indications could be a sign of a deteriorating signal system.

Whenever an inspector finds information concerning areas assigned primarily to other disciplines, this information should be forwarded through the appropriate channels for action. In this way, the OP Inspector can continue to perform effective monitoring in all aspects of railroad operations.

## Reviewing Train Employees Hours of Duty Records

When reviewing records, the inspector should observe the length of time on duty, the length of time off duty prior to the service being examined, dates, deadheading periods, and the points where release periods were taken. Determine whether these points are designated terminals or other proper release points. Note whether the release period is the required minimum of 4 hours.

If the time off duty prior to the trip or service being examined is less than 8 hours, locate the previous hours of duty record and total all of the service hours that the employee performing during the 24-hour period involved. If deadheading to a duty assignment is reported on a separate hours of duty record, it must be correlated with the record of the service.

In some instances, on-duty and off-duty points are cited by railroad symbols, or station numbers. The inspector must obtain a copy of the railroad's code of symbols or numbers before reviewing the records.

Most train employees' hours of duty records contain preparation instructions. The inspector should ensure that these instructions are consistent with the Part 228 recordkeeping requirements.

An inspector may copy any of the railroad's hours of duty records. Under no circumstances should an inspector remove these records from the railroad's property.

## Operator's Hours of Duty Records

When reviewing the records, the inspector should ensure that the service performed from day to day does not total more than the allowable maximum for each 24-hour period.

Example:        John Smith 1/1/97        3 p.m. to 11 p.m.

                  John Smith 1/2/97        7 a.m. to 3 p.m.

Facility:        More than one shift employed

This example shows a violation of the HSL since John Smith remained on duty for 16 aggregate hours - during one 24-hour period from 3 p.m. on January 1, until 3 p.m. on January 2. To avoid a violation, Smith could have worked only one additional hour between 11 p.m. on January 1, and 3 p.m. on January 2.

The law does not stipulate the length of off-duty time for employees in this craft.

A release of one hour or more is considered sufficient to break the continuity of service, provided the employee is free of all responsibility.

## Dispatcher's Record of Train Movements

The hours of duty records and dispatcher's record of train movements (train sheets) are usually kept in the dispatcher's office and should be examined to determine if they comply with the recordkeeping requirements of Part 228. The railroad may use the train sheet for the hours of duty record (if it contains all the required information) or separate hours of duty record could be maintained for the train dispatchers. The examination should also determine whether the train dispatchers have been permitted or required to perform excess service and if this has been properly reported to FRA.

All mandatory directives transmitted by train dispatchers are recorded. Inspectors should familiarize themselves with the records to determine if mandatory directives being transmitted are in accordance with the railroad's operating rules and with Federal radio rules.

## **Qualification and Certification of Locomotive Engineers (49 CFR Part 240)**

The following audit plan should be used when conducting engineer certification reviews:

### **Engineer Certification Audit Protocol**

#### **Procedures**

The following procedures have been time tested and will assist you in conducting a thorough audit of a railroad's Locomotive Engineer Certification Program and its associated recordkeeping requirements. The procedures are divided into three elements:

Prior to Inspection

Inspection

Recordkeeping Requirements

#### **Prior to Inspection**

1. Since the regulation permits each railroad to have its own certification program, it is imperative to review the railroad's program prior to the audit.
  - A. Determine if the railroad's submission is the current submission that was secured through your regional office or from headquarters (240.103).
  - B. Determine if the railroad employs contractors to maintain the records of its certified locomotive engineers; i.e., Transportation Certification Services (TCS) or any other contractor. This is a common practice on many Class III railroads. If this railroad is employing a contractor to maintain the certification records, it is advisable that you request the railroad to obtain copies of these records prior to your inspection. If contractors are employed and not stated in the railroad's submission, take the appropriate action.
  - C. Focus on the selection criteria for Designated Supervisors' of Locomotive Engineers [DSLE's] (240.105).
  - D. Review the classes of certified engineers operating on the railroad (240.107).
  - E. Review the training requirements outlined in the program. The requirements are the same for DSLE's and agreement engineers.
  - F. Review how the annual monitoring rides are conducted; e.g., actual monitoring on the train (by simulator or by event recorder data), check discrepancies between the program requirements and the actual events taking place.

- G. Take note of any section of the program that you feel needs clarification by the railroad. If an exception is noted in the program, verify with the program manager in headquarters, and then work with the railroad and headquarters to correct the exception.

## Inspection

1. Determine that the railroad conducted a formal annual review and analysis concerning the administration of its program, responding to detected instances of poor safety conduct by engineers during the prior calendar year. If requested in writing by FRA headquarters, this review and analysis must be provided in a report capable of segregation for study and evaluation as prescribed by 240.309 (e).
  - A. This analysis and review is required by all Class I, II's, Amtrak, and commuter railroads. Class III railroads are exempt from this requirement.
  - B. This analysis and review is required to be conducted prior to March 31 for the previous year.
  - C. The analysis and review should involve the items listed under 240.309 (b) and should be in some type of report.
2. Secure a list of ALL certified engineers and a list of all DSLEs as required by 240.22 (a) and (b). NOTE: These lists may be combined into one list.
  - A. The list of engineers has to indicate engineers' class of service and certification date.
3. Secure the current roster of Train Service engineers.
4. Cross reference names of engineers and current DSLE's appearing on the engineers' roster.
  - A. Target any DSLE not on the engineer's roster and scrutinize that DSLE's qualifications.
  - B. Determine how the railroad arrived at their decision that this DSLE is qualified to evaluate engineers.
5. Request and review the records of each DSLE.
  - A. Focus on training records of the DSLEs that were not previously locomotive engineers.
6. Randomly select about 10 percent of the total certified engineers and request and review their associated records.
  - A. It is advisable to review the different classes of certified engineers to determine the extent of compliance by the railroad.

## Recordkeeping Requirements

The regulation requires that the railroad that issues, denies or revokes a certificate after making the determinations required under 240.203 shall maintain a record for each certified engineer or applicant for certification that contains the information the railroad relied on in making the determinations. [240.215 (a)]

The prerequisite requirements for initial certification and recertification under 240.203 are as follows:

- 240.113 - Prior Railroad Service Record (if applicable)
- 240.115 - Motor Vehicle Driving Record
- 240.117 - Operating Rules Compliance (Decertification)
- 240.119 - Drug and Alcohol Compliance
- 240.121 - Hearing and Vision Acuity
- 240.123 - Completion of Training Program
- 240.125 - Knowledge Testing
- 240.127 - Skills Performance Testing

These elements are essential for the issuance of a certification card. You will note that this section does not require that the annual monitoring ride or yearly efficiency test (240.129) be conducted before the issuance of a certificate. Therefore, when you discover that the railroad failed to conduct either of these requirements, these elements become violations under 240.303 (b), and © respectively, but they do not affect the engineer's certification status.

A railroad is required to maintain a record for 6 years of the data used to make the following determinations, pursuant to 240.215:

- 240.113 - Information from the railroad or a prior employing railroad (if applicable) on prior safety conduct.
- 240.115 - Motor Vehicle Driving Record Check National Drivers' Register (NDR) and State.
- 240.121 - Hearing and Vision Acuity Standards.
- 240.123 - Training Program Records (if applicable)

This includes, but not limited to, testing results, On the Job Training time (OJT), DSLE evaluations, etc.

- 240.125 - Knowledge Testing Requirements.
- 240.127 - Skills Performance Tests (simulators).
- 240.129 - Annual Monitoring Ride.
- 240.129 - Annual Unannounced Efficiency Test.
- 240.217 - Time limitation for making determinations - railroads must not rely on data that is older than the following from the date of certification:

Prior safety conduct - 180 days

Hearing & vision acuity - 180 days

Knowledge test - 360 days

### Skills performance test - 360 days

These records are mandatory data that may be supplemented by additional information not required by the regulation. You may find information regarding drug and alcohol issues in the records and other data NOT of regulatory concern.

The regulation permits the railroad to utilize electronic retrieval from a system that produces a printed format, which is readily available to FRA. Records retained in the "computer format" must be adequate to provide informational data as outlined above. In all instances, the railroad should be able to verify the information contained in the computer format.

**Example A:** NDR's and State driving records should be on file somewhere on the railroad, preferably, where the certification records are maintained. The fact that the information is contained in the computer file does not relieve the railroad from maintaining these records. Moreover, the locomotive engineer had to request this information or sign an authorization form to permit the railroad to access the NDR and the State driving history in order for the railroad to issue a certificate.

**Example B:** Hearing and vision acuity fitness is often contained in the medical record of the locomotive engineer. This element of the certification process is particularly sensitive. Sometimes, but not always, these records are maintained in another location. As long as the railroad can verify the fitness of the engineer to support the date (s) listed in the computer file, this is permissible.

The inspection of the records should reveal railroad compliance or noncompliance with the regulation. In order for the inspection to be a viable tool, it is imperative that each section of the regulation outlined above be checked for compliance. To assist in this process, attached is an "audit form" that follows the sections of the regulation required under 240.215. This form is simple, yet it permits an in-depth inspection of the railroad's records.

Additionally, it permits the compliance or noncompliance to be extracted without voluminous photocopying. When a deficiency is found, merely attach a photocopy of the record to the audit form record and it is available for future use. This is extremely helpful in preparing an accurate memorandum on the audit, delineating the deficiencies.

Also attached for use and guidance, are questionnaires used to determine qualifications of DSLEs, Student Engineers and Locomotive Engineers. These questions are often used when a systemic problem is detected either prior to or as a result of a 240 audit. Normally they are conducted in the field by inspectors in different locales on the same railroad. They assist in evaluating the railroad's training program and are specifically directed toward certain criteria that each class of engineer should possess.



## Questionnaire

### Designated Supervisor of Locomotive Engineers

Location: \_\_\_\_\_ Inspector: \_\_\_\_\_ Date: \_\_\_\_\_

DSLE's Name: \_\_\_\_\_ ID NO: \_\_\_\_\_

Length of Service as an Engineer \_\_\_\_\_ Service as a Supervisor \_\_\_\_\_

Certificate Information: Date of Issue: \_\_\_\_\_ Class: \_\_\_\_\_

Restrictions: \_\_\_\_\_

Joint Operations Qualified: \_\_\_\_\_ Where: \_\_\_\_\_

Operational Monitoring Event: 240.129 (c)(2) Date: 1995 \_\_\_\_/\_\_\_\_/\_\_\_\_

1996 \_\_\_\_/\_\_\_\_/\_\_\_\_ 1997 \_\_\_\_/\_\_\_\_/\_\_\_\_

Type of Monitoring Event: Train Ride \_\_\_\_\_ \* Event Recorder \_\_\_\_\_

Simulator \_\_\_\_\_

\*If train ride, how many hours was the DSLE with him? \_\_\_\_\_

Name and Title of DSLE that Conducted Event: 1995 \_\_\_\_\_

1996 \_\_\_\_\_

1997 \_\_\_\_\_

Was the DSLE Aware of any Unannounced Efficiency Test? \_\_\_\_\_

If so, what year? \_\_\_\_\_

Has the DSLE Been Recertified Since January 1, 1992? \_\_\_\_\_

If so, what year(s)? \_\_\_\_\_

Has the DSLE Been Involved in a Decertification Event? \_\_\_\_\_

If so, what was the date? \_\_\_\_\_

What was the event? \_\_\_\_\_

Was the DSLE a Previous Locomotive Engineer? \_\_\_\_\_

If so, how long? \_\_\_\_\_ Where? \_\_\_\_\_

If not, how was he trained? \_\_\_\_\_

Where was he trained? \_\_\_\_\_ When? \_\_\_\_\_

How Many Hours of Training Did He Receive on Engineer Certification, Part 240? \_\_\_\_\_

How Many Trips Did DSLE Make as a Locomotive Engineer in 1995? \_\_\_\_\_

1996? \_\_\_\_\_ 1997? \_\_\_\_\_

Type of train \_\_\_\_\_ How many miles? \_\_\_\_\_

From: \_\_\_\_\_ To: \_\_\_\_\_

Reason He Operated the Train: \_\_\_\_\_

Does the DSLE Perform Unannounced Efficiency Testing on Other Engineers? \_\_\_\_\_

If so, what procedures does he employ? \_\_\_\_\_

Does the DSLE Perform Operational Monitoring Rides on Other Engineers? \_\_\_\_\_

If so, what procedures does he employ? \_\_\_\_\_

Does the DSLE Have an Evaluation Form that He Completes for the Rides? \_\_\_\_\_

Does the DSLE Maintain the Records of the Operational Monitoring Rides? \_\_\_\_\_

How Many Engineers Are Under His Supervision? \_\_\_\_\_

Does He Maintain a Check List of Engineers Requiring Annual Rides? \_\_\_\_\_

How Many Student Engineers Are Under His Supervision in a Year? \_\_\_\_\_

Does He Require the Engineers to Evaluate the Students? \_\_\_\_\_

If so, did he provide any training to the engineers? \_\_\_\_\_ How many hours? \_\_\_\_\_

Does he evaluate the student? \_\_\_\_\_

Is this evaluation in writing? \_\_\_\_\_

Is this evaluation oral? \_\_\_\_\_

Who does he report the progress of the student to? \_\_\_\_\_

Is he responsive to the instructor's concerns? \_\_\_\_\_

Does he allow more OJT for the student, when requested? \_\_\_\_\_

If so, how many more trips, hours, etc.? \_\_\_\_\_

Does He Make Unannounced Train Rides with the Students to Check Their Progress? \_\_\_\_\_

If so, how often? \_\_\_\_\_

If not, does he only ride when he is to issue "train service" certificate to the student? \_\_\_\_\_

Have him explain why not \_\_\_\_\_

DSLE's Opinion of the Engineer Training Program \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**QUESTIONNAIRE****Student Locomotive Engineers**

Location: \_\_\_\_\_ Inspector: \_\_\_\_\_ Date: \_\_\_\_\_

Engineer: \_\_\_\_\_ ID NO : \_\_\_\_\_

Length of Service as an Engineer \_\_\_\_\_

Certificate Information: Date of Issue: \_\_\_\_\_ Class: \_\_\_\_\_

Restrictions: \_\_\_\_\_

Joint Operations Qualified: \_\_\_\_\_ Where: \_\_\_\_\_

Operational Monitoring Event [240.303 (b)] Date: 1995 \_\_\_\_/\_\_\_\_/\_\_\_\_

1996 \_\_\_\_/\_\_\_\_/\_\_\_\_ 1997 \_\_\_\_/\_\_\_\_/\_\_\_\_

Type of Monitoring Event: Train Ride \_\_\_\_\_\* Event Recorder \_\_\_\_\_

Simulator \_\_\_\_\_

\*If train ride, how many hours was the DSLE with him? \_\_\_\_\_

Name and Title of DSLE that Conducted Event:

1995 \_\_\_\_\_

1996 \_\_\_\_\_

1997 \_\_\_\_\_

General Information:

How many hours of classroom training did the student receive? \_\_\_\_\_

How many hours of "hands on" instruction was there? \_\_\_\_\_

How many hours of OJT has the student received? \_\_\_\_\_

How many hours was he given on the operating rules? \_\_\_\_\_

How many hours was he given on signals and their applications? \_\_\_\_\_

Does he understand the operating rules? \_\_\_\_\_

(Ask some operating rule questions; i.e. restricted speed definition)

Were the instructors at the training center knowledgeable? \_\_\_\_\_

Did the instructors assist the student in any way? \_\_\_\_\_

Does he think that the training was adequate? \_\_\_\_\_

Does he think the training should be longer? \_\_\_\_ How much longer? \_\_\_\_

Does the DSLE ever take a train ride with him to evaluate his progress before being issued a Train Service Certificate? \_\_\_\_ If so, how many times? \_\_\_\_

Has the Student Been Involved in a Decertification Event? \_\_\_\_

If so, what was the date? \_\_\_\_

What was the event? \_\_\_\_

Are the Engineers Receptive to Him? \_\_\_\_

Does he work with the same engineer? \_\_\_\_

Do they assist him in his OJT? \_\_\_\_

Is he evaluated by the engineer? \_\_\_\_

Is this evaluation in writing? \_\_\_\_

Is this evaluation oral? \_\_\_\_

Who does the student report to? \_\_\_\_

Does the student submit an evaluation form to the DSLE? \_\_\_\_

Is the DSLE responsive to the instructors concerns? \_\_\_\_

Is the DSLE concerned about the student's progress? \_\_\_\_

Does the DSLE grant the student more OJT, when requested? \_\_\_\_

Opinion of the Student Engineer Regarding the Training Program:

\_\_\_\_\_  
\_\_\_\_\_

## QUESTIONNAIRE Locomotive Engineers

Location: \_\_\_\_\_ Inspector: \_\_\_\_\_ Date: \_\_\_\_\_

Engineer: \_\_\_\_\_ ID NO: \_\_\_\_\_

Length of Service as an Engineer \_\_\_\_\_

Certificate Information: Date of Issue: \_\_\_\_\_ Class: \_\_\_\_\_

Restrictions: \_\_\_\_\_

Joint Operations Qualified: \_\_\_\_\_ Where: \_\_\_\_\_

Operational Monitoring Event [240.303 (b)] Date: 1995 \_\_\_\_/\_\_\_\_/\_\_\_\_

1996 \_\_\_\_/\_\_\_\_/\_\_\_\_ 1997 \_\_\_\_/\_\_\_\_/\_\_\_\_

Type of Monitoring Event: Train Ride \_\_\_\_\_\* Event Recorder \_\_\_\_\_

Simulator \_\_\_\_\_

\*If train ride, how many hours was the DSLE with him? \_\_\_\_\_

Name and Title of DSLE that Conducted Event:

1995 \_\_\_\_\_

1996 \_\_\_\_\_

1997 \_\_\_\_\_

Was the Engineer Aware of any Unannounced Efficiency Test? \_\_\_\_\_

If so, what year? \_\_\_\_\_

Has the Engineer Been Recertified Since January 1, 1992? \_\_\_\_\_

If so, what year(s)? \_\_\_\_\_

Has the Engineer Been Involved in a Decertification Event? \_\_\_\_\_

If so, what was the date? \_\_\_\_\_

What was the event? \_\_\_\_\_

Is the Engineer Required to Act as an Instructor Engineer? \_\_\_\_\_

If so, has he had any training? \_\_\_\_\_ How many hours? \_\_\_\_\_

Does he evaluate the student? \_\_\_\_\_

Is this evaluation in writing? \_\_\_\_\_

Is this evaluation oral? \_\_\_\_\_

Who does he report the progress of the student to? \_\_\_\_\_

Is the DSLE responsive to the instructor's concerns? \_\_\_\_\_

Opinion of the Engineer Regarding the Training Program:

\_\_\_\_\_

\_\_\_\_\_

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